

Remarks

Applicants thank the Examiner for the courtesy of a telephone conference on August 4, 2004.

Reconsideration and withdrawal of the rejections set forth in the Office Action dated June 2, 2004 are respectfully requested.

I. Amendments

Claims 1 and 66 are amended to specify that the claimed peptide has "greater than 80%" identity with SEQ ID NO:4. Basis is found on page 13, lines 17-20, where the specification states "...two sequences...are preferably homologous if their amino acids are greater than or equal to 50%, more preferably 70%, still more preferably 80% identical...." (emphasis added).

Claim 2 is amended to proper Markush format, as requested by the Examiner in the Office action.

New claim 71, which recites that the peptide of SEQ ID NO:4 include a terminal cysteine residue, finds basis on page 15, lines 2-7 and on page 27, lines 25-26.

II. Rejections under 35 U.S.C. § 102

Claims 1, 7-9, 59-62, and 64-69 were rejected under 35 U.S.C. §102(b) as allegedly anticipated by Ron *et al.*, U.S. Patent No. 5,776,716. This rejection is respectfully traversed for the following reason.

A. The Present Invention

The present invention relates to δ V1-1 peptides having greater than 80% identity to SEQ ID NO:4 (SFNSYELGSL).

B. The Cited Art

RON *ET AL.* disclose a peptide having the sequence AFNSYELGS (SEQ ID NO:14, Col. 18, line 24).

C. Analysis

The standard for lack of novelty, that is, for anticipation, is one of strict identity. To anticipate a claim for a patent, a single prior source must contain all its essential elements.

M.P.E.P. § 2131

Claims 1 and 66 are amended to recite peptides having greater than 80% identity to SEQ ID NO:4 (SFNSYELGSL). The Ron *et al.* peptide "AFNSYELGS" has eight residues in common with the ten residues of claimed SEQ ID NO:4. Eight amino acid residues in common with ten residues in the claimed sequence corresponds to 80% (8/10=80%) identity. Thus, the claims as amended define over Ron *et al.* since the sequence disclosed in Ron *et al.*, AFNSYELGS, is only 80% identical with the claimed SEQ ID NO:4, SFNSYELGSL. Claims 1 and 66, however, recite peptides having greater than 80% identity with SEQ ID NO: 4, SNFSYELGSL. Thus, the sequence in Ron *et al.* does not anticipate the present claims.

Accordingly, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §102.

III. Information Disclosure Statement

Applicants enclose a supplemental information disclosure statement listing U.S. Patent No. 5,783,405. This patent also discloses on Col 11, line 14 the "AFNSYELGS" peptide also disclosed by Ron *et al.* Thus, the '405 patent is cumulative to the citation of Ron *et al.*

IV. Conclusion

In view of the foregoing, the claims pending in the application patentably define over the applied art. A Notice of Allowance is, therefore, respectfully requested.

If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (650) 838-4402.

Respectfully submitted,

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